

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ESMELING BAHENA,

Plaintiff,

v.

RODRIGUEZ, et al.,

Defendants.

Case No. 1:20-cv-01685-SAB

**ORDER DENYING PLAINTIFF'S
APPLICATION TO PROCEED IN FORMA
PAUPERIS WITHOUT PREJUDICE AND
REQUIRING PLAINTIFF TO SUBMIT THE
CORRECT FORM OR PAY THE FILING FEE
WITHIN FORTY-FIVE DAYS**

(ECF No. 2)

On November 30, 2020, Plaintiff, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983. Along with the complaint, Plaintiff submitted a regular civil application to proceed without prepayment of fees.

Pursuant to 18 U.S.C. § 1915(b), a prisoner who brings a civil action is required to pay the full amount of the filing fee and the Court “shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of--(A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.” Section 1915 provides that “the agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.” 18 U.S.C. § 1915(b)(2).

The form filed by Plaintiff lacks the requisite authorization for the deduction of the filing fee from Plaintiff's trust account as funds are available. 28 U.S.C. § 1915.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's application to proceed in forma pauperis, filed November 30, 2020, is denied without prejudice;
2. Within **forty-five (45) days** from the date of service of this order, Plaintiff shall file the attached application to proceed in forma pauperis, completed and signed, or in the alternative, pay the \$400.00 filing fee for this action;
3. No extension of time will be granted without a showing of good cause; and
4. The failure to comply with this order will result in dismissal of this action, without prejudice.

IT IS SO ORDERED.

Dated: **December 1, 2020**


UNITED STATES MAGISTRATE JUDGE